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August 25, 2005

Michigan Supreme Court
Michigan Hall of Justice
PO Box 30052
Lansing, MI 48909

Honorable Clifford W. Taylor, C.J.
Honorable Michael F. Cavanagh
Honorable Maura D. Corrigan
Honorable Elizabeth A. Weaver

Honorable Marilyn J. Kelly
Honorable Robert P. Young, Jr.
Honorable Stephen J. Markman

Re: Proposed Amendment to MCR 5.302(A)

Dear Justices:

I would like to comment on the proposed change to MCR 5.302(A). You have offered two alternatives. Based on my 50 plus years of experience in handling decedent's estate, I believe Alternative A is appropriate (i.e. court cannot require a death certificate).

This is the view of a "seasoned" practitioner who opened his first decedent's estate in the Wayne Probate Court in November, 1954 and has been doing the same regularly ever since with the most recent being last week.

To have an **absolute** rule requiring a death certificate **before** a proceeding can begin makes absolutely no sense to me. On many occasions, it is necessary and in the estate's best interest to get the proceeding opened as soon as possible. I deal mainly in high end estates and the need for quick action by the personal representative is normally the rule. That requires the issuance of Letters of Authority to the PR before he or she may act. In most cases, death certificates are not readily available particularly where death may have occurred in another jurisdiction (either a different state or foreign country). I have had several estates where the decedent died in a foreign country and it literally took several weeks (and a few times even months) before a certified death certificate was available. If a rule requiring that the death certificate be attached to the petition to commence proceedings were in place, substantial additional expenses would be incurred to get some kind of temporary proceeding going to protect the estate assets (unless, of course, the rule

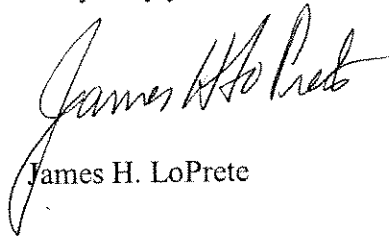
would even prevent temporary appointments in which case there could be substantial losses incurred). Only the attorneys would benefit from this added work which the beneficiaries would have to pay for.

I have lived through several market crashes where quick action to protect estate assets by fiduciaries was required. Anything that slows down the appointment of a PR, in my opinion, makes no sense. I also see no valid reason why a death certificate is needed at the time of **commencement** of the proceeding. If there is an issue as to whether death has occurred, it can be addressed later in the proceeding.

In my further opinion, being able to get an appointment of a PR early on (i.e. before a death certificate may be available) has substantial benefits in the area of preserving estate assets which far outweigh any benefit of having a death certificate accompany a petition to commence proceedings.

These are the thoughts of an old probate court warhorse! Thank you for considering them.

Very truly yours,

A handwritten signature in black ink, appearing to read "James H. LoPrete", written in a cursive style.

James H. LoPrete

JHL/mf